

Introduced by Senator Chesbro

February 22, 2005

An act to amend Sections 1572 and 1576.2 of, and to repeal Sections 1575.45 and 1575.5 of, the Health and Safety Code, and to amend Sections 14043.46, 14105.395, 14520, and 14573 of, and to repeal and add Section 14521 of, the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 642, as introduced, Chesbro. Medi-Cal: adult day health care services.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Health Services and the California Department of Aging pursuant to an interagency agreement.

Existing law requires the interagency agreement between the State Department of Health Services and the California Department of Aging to delegate to the California Department of Aging the responsibility of performing financial reviews, to the extent resources are budgeted for that purpose, and the resolution of audit appeals. Existing law requires the Director of the California Department of Aging to make recommendations regarding licensure to the licensing and certification division in the State Department of Health Services based on 2 criteria.

This bill would eliminate the requirement that the interagency agreement delegate the performance of financial reviews and the resolution of audit appeals to the California Department of Aging. The

bill would eliminate the requirement that the California Department of Aging make the recommendations regarding licensure.

Existing law authorizes the State Department of Health Services to immediately take any of 3 actions if the department determines that an adult day health care center operating under a provisional license has serious deficiencies that pose a risk to the health and safety of the participants.

This bill would repeal this provision.

Existing law, except in certain circumstances, requires an applicant for initial licensure as an adult day health care center to concurrently with the submission of the application to apply to the State Department of Health Services for eligibility certification as a provider of adult day health care services reimbursable under the Medi-Cal Act. Existing law prohibits the issuance or renewal of a license for an adult day health care center that is not approved as a Medi-Cal provider of adult day health care services.

This bill would repeal this provision.

Existing law requires the license of an applicant that has had its Medi-Cal certification for adult day health care revoked to be rescinded.

This bill, instead, would authorize, rather than require, the rescission of the adult day health care license under this circumstance.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits, including adult day health care services.

Existing law authorizes the State Department of Health Services to implement a one-year moratorium on the certification and enrollment into the Medi-Cal program of new adult day health care centers on a statewide basis or within a geographic area. Existing law authorizes the director to extend this moratorium, if necessary, to coincide with the implementation date of an adult day health care waiver.

This bill would also authorize the director to extend the moratorium, if necessary, to coincide with the implementation date of an adult day health care state plan amendment.

Existing law authorizes the State Department of Health Services to implement utilization controls under the Medi-Cal program through the establishment of guidelines, protocols, algorithms, or criteria for drugs, medical supplies, durable medical equipment, and enteral formulae, and to publish them in the pharmacy and medical provider

manuals. Existing law requires the department to issue providers written notice of changes under this provision at least 30 days prior to implementation.

This bill would require, instead, that the department issue providers written notice of changes under this provision at least 90 days prior to implementation.

This bill would also authorize the department to implement utilization controls and certification requirements through the establishment of guidelines, protocols, or criteria for the Adult Day Health Care program and to publish them in the inpatient/outpatient provider manual.

The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria.

This bill would change the name of the Adult Day Health Medi-Cal Law to the Adult Day Health Care Medi-Cal Law.

This bill would require the department to take all appropriate action to obtain approval for a state plan amendment that would conform the Adult Day Health Care (ADHC) program to requirements of federal law and include specific requirements. The bill would provide that no single provision of the ADHC state plan amendment shall be implemented unless and until the department has obtained full approval for that amendment from the federal Centers for Medicare and Medicaid Services, and the plan can be implemented by the department.

Existing law requires that the initial Medi-Cal certification for adult day health care providers expire 12 months from the date of issuance. Existing law authorizes the director to specify any date as the expiration date of a renewal of certification based on 2 considerations, not to exceed 24 months from the date of issuance of Medi-Cal certification, and authorizes the director to extend certification for periods of not more than 60 days.

This bill would delete the authority of the director to specify any date as the expiration date of a renewal of certification. The bill would provide instead that subsequent certification periods shall expire not more than 24 months from the date of issuance, subject to an evaluation by the director prior to the expiration of the 24-month certification.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that this act do
2 all of the following:

3 (a) Permit the adult day health care program to continue to
4 operate as an optional Medi-Cal benefit, subject to the approval
5 by the federal Centers for Medicare and Medicaid Services of a
6 state plan amendment, while preserving the integrity of the adult
7 day health care model as it evolves to an enhanced program of
8 services emphasizing quality, access, and disease management.

9 (b) Establish delivery of appropriate services and levels of
10 care under a state plan amendment for the adult day health care
11 program in a cost effective manner encouraging participant
12 independence and supporting caregiver well-being as
13 components of an integrated long-term care model consistent
14 with the principles of the decision of the United States Supreme
15 Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581.

16 (c) Modify state law to reflect the intent to conform adult day
17 health care program elements to the requirements of the federal
18 Centers for Medicare and Medicaid Services in a manner that
19 will permit the program to continue to be eligible for federal
20 financial participation.

21 SEC. 2. Section 1572 of the Health and Safety Code is
22 amended to read:

23 1572. (a) The functions and duties of the State Department of
24 Health Services provided for under this chapter shall be
25 performed by the California Department of Aging commencing
26 on the date those functions are transferred from the State
27 Department of Health Services to the California Department of
28 Aging. The authority, functions, and responsibility for the
29 administration of the adult day health care program by the
30 California Department of Aging and the State Department of
31 Health Services shall be defined in an interagency agreement
32 between the two departments that specifies how the departments
33 will work together.

34 (b) The interagency agreement shall specify that the California
35 Department of Aging is designated by the department as the

1 agency responsible for community long-term care programs. At a
 2 minimum, the interagency agreement shall clarify each
 3 department's responsibilities on issues involving licensure and
 4 certification of adult day health care providers, payment of adult
 5 day health care claims, prior authorization of services,
 6 promulgation of regulations, and development of adult day health
 7 care Medi-Cal rates. In addition, this agreement shall specify that
 8 the California Department of Aging is responsible for making
 9 recommendations to the department regarding licensure as
 10 specified in subdivision (c). ~~The interagency agreement shall~~
 11 ~~specify that the department shall delegate to the California~~
 12 ~~Department of Aging the responsibility of performing the~~
 13 ~~financial reviews and the resolution of audit appeals that are~~
 14 ~~necessary to ensure program integrity. The agreement shall~~
 15 ~~specify that the financial reviews shall be performed only to the~~
 16 ~~extent that resources are budgeted for this purpose. This~~
 17 ~~agreement shall also include provisions whereby the department~~
 18 ~~and the California Department of Aging shall collaborate in the~~
 19 ~~development and implementation of health programs and~~
 20 ~~services for older persons and functionally impaired adults.~~

21 ~~(c) The Director of the California Department of Aging shall~~
 22 ~~make recommendations regarding licensure to the Licensing and~~
 23 ~~Certification Division in the State Department of Health~~
 24 ~~Services. The recommendation shall be based on all of the~~
 25 ~~following criteria:~~

26 ~~(1) An evaluation of the ability of the applicant to provide~~
 27 ~~adult day health care in accordance with the requirements of this~~
 28 ~~chapter and regulations adopted hereunder.~~

29 ~~(2) Other criteria that the director deems necessary to protect~~
 30 ~~public health and safety.~~

31 SEC. 3. Section 1575.45 of the Health and Safety Code is
 32 repealed.

33 ~~1575.45. (a) If the department determines that the adult day~~
 34 ~~health care center operating under a provisional license has~~
 35 ~~serious deficiencies that pose a risk to the health and safety of the~~
 36 ~~participants, the department may immediately take any of the~~
 37 ~~following actions, including, but not limited to:~~

38 ~~(1) Require a plan of correction.~~

39 ~~(2) Limit participant enrollment.~~

40 ~~(3) Prohibit new participant enrollment.~~

~~(b) When appropriate, the California Department of Aging and the department shall coordinate an action or actions to ensure consistency and uniformity.~~

~~(c) The licensee shall have the right to dispute an action or actions taken pursuant to paragraphs (2) and (3) of subdivision (a). The department shall accept, consider, and resolve disputes filed pursuant to this subdivision by a licensee in a timely manner.~~

~~(d) The director shall ensure that public records accurately reflect the current status of any action or actions taken pursuant to this section, including any resolution of disputes.~~

SEC. 4. Section 1575.5 of the Health and Safety Code is repealed.

~~1575.5. (a) Concurrently with the submission of any application under Section 1575.2, the applicant shall apply to the department for eligibility certification as a provider of adult day health care services reimbursable under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code). No license shall be issued or renewed for an adult day health care center that is not approved as a Medi-Cal provider of adult day health care services.~~

~~(b) (1) This section shall not apply to centers licensed during a moratorium imposed in accordance with Section 14043.46 of the Welfare and Institutions Code. The moratorium shall not prohibit the department from approving a change in ownership, relocation, or increase in capacity for an adult day health care center that meets the conditions in subdivision (c) of Section 14043.46 of the Welfare and Institutions Code.~~

~~(2) This section shall not apply upon the implementation of the adult day health care waiver in accordance with the Welfare and Institutions Code.~~

SEC. 5. Section 1576.2 of the Health and Safety Code is amended to read:

1576.2. (a) Each license issued or renewed pursuant to this chapter shall not be transferable and the initial license shall expire 12 months from the date of its issuance. The director shall be given the discretion to approve applications for relicensure for a period of up to 24 months. Application for annual renewal of a license, accompanied by the required fee, shall be filed with the

1 department not less than 30 days prior to the expiration date.
2 Failure to submit a renewal application prior to that date shall
3 result in expiration of the license.

4 (b) A license ~~shall~~ *may* be rescinded for an applicant that has
5 had its Medi-Cal certification for adult day health care revoked.

6 SEC. 6. Section 14043.46 of the Welfare and Institutions
7 Code is amended to read:

8 14043.46. (a) Notwithstanding any other provision of law, on
9 the effective date of the act adding this section, the department
10 may implement a one-year moratorium on the certification and
11 enrollment into the Medi-Cal program of new adult day health
12 care centers on a statewide basis or within a geographic area.

13 (b) The moratorium shall not apply to the following:

14 (1) Programs of All-Inclusive Care for the Elderly (PACE)
15 established pursuant to Chapter 8.75 (commencing with Section
16 14590).

17 (2) An organization that currently holds a designation as a
18 federally qualified health center as defined in Section 1396d(l)(2)
19 of Title 42 of the United States Code.

20 (3) An organization that currently holds a designation as a
21 federally qualified rural health clinic as defined in Section
22 1396d(l)(1) of Title 42 of the United States Code.

23 (4) An applicant with the physical location of the center in an
24 unserved area, which is defined as a county having no licensed
25 and certified adult day health care center within its geographic
26 boundary.

27 (c) The moratorium shall not prohibit the department from
28 approving a change of ownership, relocation, or increase in
29 capacity for an adult day health care center if the following
30 conditions are met:

31 (1) For an application to change ownership, the adult day
32 health care center meets all of the following conditions:

33 (A) Has been licensed and certified prior to the effective date
34 of this section.

35 (B) Has a license in good standing.

36 (C) Has a record of substantial compliance with certification
37 laws and regulations.

38 (D) Has met all requirements for the change application.

(2) For an application to relocate an existing facility, the relocation center must meet all of the conditions of paragraph (1) and both of the following conditions:

(A) Must be located in the same county as the existing licensed center.

(B) Must be licensed for the same capacity as the existing licensed center, unless the relocation center is located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(3) For an application to increase the capacity of an existing facility, the center must meet all of the conditions of paragraph (1) and must be located in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(d) Following the first 180 days of the moratorium period, the department may make exceptions to the moratorium for new adult day health care centers that are located in underserved areas if the center's application was on file with the department on or before the effective date of the act adding this section. In order to apply for this exemption, an applicant or licensee must meet all of the following criteria:

(1) The applicant has control of a facility, either by ownership or lease agreement, that will house the adult day health care center, has provided to the department all necessary documents and fees, and has completed and submitted all required fingerprinting forms to the department.

(2) The physical location of the applicant's or licensee's adult day health care center is in an underserved area, which is defined as a county having 2 percent or fewer Medi-Cal beneficiaries over the age of 65 years using adult day health care services, based on 2002 calendar year Medi-Cal utilization data.

(e) During the period of the moratorium, a licensee or applicant that meets the criteria for an exemption as defined in subdivision (d) may submit a written request for an exemption to the director.

(f) If the director determines that a new adult day health care licensee or applicant meets the exemption criteria, the director

1 may certify the licensee or applicant, once licensed, for
2 participation in the Medi-Cal program.

3 (g) The director may extend this moratorium, if necessary, to
4 coincide with the implementation date of the adult day health
5 care waiver *or an adult day health care state plan amendment*.

6 (h) The authority granted in this section shall not be
7 interpreted as a limitation on the authority granted to the
8 department in any other section.

9 SEC. 7. Section 14105.395 of the Welfare and Institutions
10 Code is amended to read:

11 14105.395. (a) The department may implement utilization
12 controls through the establishment of guidelines, protocols,
13 algorithms, or criteria for drugs, medical supplies, durable
14 medical equipment, and enteral formulae. The department shall
15 publish the guidelines, protocols, algorithms, or criteria in the
16 pharmacy and medical provider manuals.

17 (b) *The department may implement utilization controls and*
18 *certification requirements through the establishment of*
19 *guidelines, protocols, or criteria for the adult day health care*
20 *program. The department shall publish the guidelines, protocols,*
21 *or criteria in the inpatient/outpatient provider manual.*

22 (c) The department shall issue providers written notice of
23 changes pursuant to subdivision (a) at least ~~30~~ 90 days prior to
24 implementation.

25 ~~(e)~~

26 (d) Changes made pursuant to this section are exempt from the
27 requirements of the Administrative Procedure Act (Chapter 3.5
28 (commencing with Section 11340), Chapter 4 (commencing with
29 Section 11370), and Chapter 5 (commencing with Section 11500)
30 of Part 1 of Division 3 of Title 2 of the Government Code), and
31 shall not be subject to the review and approval of the Office of
32 Administrative Law. The department shall consult with interested
33 parties and appropriate stakeholders in implementing this section
34 with respect to all of the following:

35 (1) Notifying the provider representatives of the proposed
36 change.

37 (2) Scheduling ~~at least one meeting~~ *meetings* to discuss the
38 change.

39 (3) Allowing for written input regarding the change.

1 (4) Providing advance notice on the implementation and
2 effective date of the change.

3 SEC. 8. Section 14520 of the Welfare and Institutions Code is
4 amended to read:

5 14520. This chapter shall be known and may be cited as the
6 Adult Day Health *Care* Medi-Cal Law.

7 SEC. 9. Section 14521 of the Welfare and Institutions Code is
8 repealed.

9 ~~14521. It is the intent of the Legislature in enacting this~~
10 ~~chapter to establish adult day health care as a Medi-Cal benefit~~
11 ~~and allow persons eligible to receive the benefits under Chapter 7~~
12 ~~(commencing with Section 14000) of this part, and who have~~
13 ~~medical or psychiatric impairments, to receive adult day health~~
14 ~~care services. It is the intent of the Legislature in authorizing this~~
15 ~~Medi-Cal benefit to establish and continue a community-based~~
16 ~~system of quality day health services which will (1) ensure that~~
17 ~~elderly persons not be institutionalized prematurely and~~
18 ~~inappropriately, (2) provide appropriate health and social~~
19 ~~services designed to maintain elderly persons in their own~~
20 ~~homes, (3) establish adult day health centers in locations easily~~
21 ~~accessible to the economically disadvantaged elderly person, and~~
22 ~~(4) encourage the establishment of rural alternative adult day~~
23 ~~health care centers which are designed to make adult day health~~
24 ~~care accessible to impaired Californians living in rural areas.~~

25 SEC. 10. Section 14521 is added to the Welfare and
26 Institutions Code, to read:

27 14521. (a) For the purposes of this chapter, the following
28 definitions shall apply:

29 (1) “ADHC” means adult day health care under the Medi-Cal
30 program.

31 (2) “ADHC services” means those health and social services
32 provided by the Adult Day Health Care program.

33 (3) “CMS” means the federal Centers for Medicare and
34 Medicaid Services.

35 (4) “Individual plan of care” or “IPC” means the plan of care
36 developed by the adult day health care center’s multidisciplinary
37 team that specifies the individual adult day health care services
38 needed by the participant.

39 (5) “Participant” means a Medi-Cal beneficiary who is
40 receiving adult day health care services.

(b) The department shall take all appropriate action, as required by the CMS, to obtain approval for a state plan amendment for the ADHC program option. The approval shall include assurances to the CMS that the state shall amend provisions of existing law and the state plan that address the ADHC program to conform to CMS requirements. Program requirements under the amendments shall include, but not be limited to, all of the following, and be consistent with CMS requirements:

(1) Certification as a provider in the Medi-Cal program shall be a requirement for an ADHC center to participate in the Medi-Cal ADHC program. Certification requirements shall be established by the terms of the state plan amendment and all subsequent documents developed for the purpose of implementing the state plan amendment. Certification shall require prior licensing of the ADHC center.

(2) Licensing of ADHC centers shall be consistent with state licensing laws and regulations and shall be considered separate and apart from the certification of the ADHC center. Licensing of the ADHC center shall be a requirement for certification and participation in the Medi-Cal program as an ADHC provider.

(3) Itemization of the current all-inclusive per diem procedure code into its component services, resulting in individual reimbursement rates for individual skilled ADHC services that meet all of the following requirements:

(A) Prior authorization may be granted as a single procedure code for the days of attendance, with individual skilled ADHC services as specified on the participant's individual plan of care billed to the Medi-Cal program as separate services without prior authorization. These separately billed ADHC services shall be associated with approved days of attendance.

(B) (i) Reimbursement, including payment for individual skilled ADHC services, shall not exceed the maximum daily ADHC reimbursement per participant. Claims for ADHC services that exceed the maximum daily ADHC reimbursement per participant shall be denied.

(ii) The implementation of the reimbursement methodology may provide for flexible billing processes so long as payments for ADHC services do not exceed the maximum daily ADHC

1 reimbursement per participant when averaged over a calendar
2 month.

3 (C) The reimbursement for ADHC services, including rate
4 increases, shall be consistent with other similar Medi-Cal
5 services reimbursement.

6 (D) The department shall conduct regular audits of ADHC
7 centers to ensure that only services that are actually provided and
8 that are medically necessary are reimbursed.

9 (4) Claims for individual skilled ADHC services that are not
10 associated with an approved day of attendance shall be denied.

11 (5) ADHC services under the state plan amendment shall
12 include all ADHC services included in the all-inclusive per diem
13 Medi-Cal reimbursement rate as of the date that the act adding
14 this section is enacted, to the extent possible. These services shall
15 be specified and defined in the state plan amendment as required
16 by the CMS. The department may amend the definitions at any
17 time. The services shall be defined as follows:

18 (A) Unskilled services.

19 (B) Skilled services.

20 (C) Assessment and transitional services, which shall be
21 available, without prior authorization, for the purpose of
22 providing assessment services prior to initial enrollment in an
23 ADHC center, and to assist individuals transitioning out of an
24 institutional setting. Assessment and transitional services
25 provided by any ADHC provider shall be limited to a maximum
26 of three days per 12 months per participant.

27 (D) The department shall develop specific medical necessity
28 criteria for the authorization of ADHC services. These criteria
29 shall be specified in the state plan amendment and in any
30 subsequent implementation documents, and shall limit the
31 provision of ADHC services to those Medi-Cal beneficiaries who
32 require medical or remedial services to improve, restore, or
33 maintain the participant's level of physical, mental, or physical
34 and mental functioning.

35 (E) The department may enter into interagency agreements
36 with the California Department of Aging to administer the
37 ADHC program under the state plan amendment required under
38 this section. Any interagency agreement entered into shall
39 comply with Section 14000.03.

1 (F) All of the following shall be defined, described, or
2 established in the state plan amendment or in any subsequent
3 implementation document.

4 (i) The plan, procedures, standards, and protocols for
5 certification, oversight, and monitoring of ADHC centers, which
6 shall include, at a minimum, requirements for the organization
7 and administration of ADHC centers, ADHC center program
8 plans, ADHC center staffing, ADHC center subcontracts and
9 subcontractors, ADHC center program hours, the provision of
10 emergency services at ADHC centers, ADHC center policies and
11 procedures, ADHC center financial reporting and other reporting
12 to the state, ADHC center participant health records, civil rights,
13 confidentiality, and documentation for services provided, and the
14 medical necessity for those services.

15 (ii) The qualification requirements for all individual persons
16 providing direct services at the ADHC center.

17 (iii) Procedures and standards for participant assessment and
18 determination of eligibility for ADHC services. This shall
19 include, but not be limited to, freedom of choice and fair hearing
20 rights.

21 (iv) Procedures, standards, and format for the individual plan
22 of care.

23 (v) The prior authorization process, including, but not limited
24 to, medical necessity criteria, procedure codes, and
25 reimbursement rates for all ADHC services.

26 (vi) Any other provisions needed to secure CMS approval of
27 the ADHC state plan amendment required under this section.

28 (c) Upon the implementation of the ADHC program as
29 provided for in this section, the terms and conditions of the
30 ADHC state plan amendment and all subsequent implementation
31 documents shall control the operation of the ADHC program
32 under the Medi-Cal program. In the event of a conflict between
33 the terms and conditions of the ADHC state plan amendment and
34 any provision of this chapter or any other state law or regulation,
35 the terms and conditions of the ADHC state plan amendment
36 shall control.

37 (d) The ADHC state plan amendment shall be implemented
38 only to the extent that it is approved by the CMS and only to the
39 extent that federal financial participation is available for all
40 specified ADHC services.

1 (e) No single provision of the ADHC state plan amendment
2 shall be implemented unless and until the department has
3 obtained full approval for that amendment from the CMS, and
4 the plan can be implemented by the department.

5 (f) To implement this section, the department may contract
6 with public or private entities or utilize existing health care
7 services provider enrollment and payment mechanisms, including
8 the Medi-Cal program's fiscal intermediary, only if services
9 provided under this chapter or Chapter 8 (commencing with
10 Section 14200) are specifically identified and reimbursed in a
11 manner that appropriately claims federal financial participation.

12 (g) In order to achieve maximum cost savings, the Legislature
13 hereby determines that an expedited contract process for all
14 contracts under this section is necessary. Therefore, all contracts
15 enter into under this section may be on a competitive or
16 noncompetitive bid basis and shall be exempt from Chapter 2
17 (commencing with Section 10290) of Part 2 of Division 2 of the
18 Public Contract Code.

19 (h) Contracts under this section shall be exempt from the
20 requirements of Article 4 (commencing with Section 19130) of
21 Chapter 5 of Part 2 of Division 5 of the Government Code.

22 (i) The ADHC services specified in the state plan amendment
23 shall be available only for those Medi-Cal beneficiaries
24 authorized according to the eligibility and medical necessity
25 standards approved by the CMS. The department shall make all
26 reasonable efforts to continue ADHC services for those
27 participants receiving ADHC services as of the effective date of
28 the act adding this section. The failure of a participant receiving
29 ADHC services as of that date to meet the eligibility and medical
30 necessity standards under the ADHC state plan amendment shall
31 be subject to the same fair hearing process granted to Medi-Cal
32 beneficiaries for the discontinuance or denial of other Medi-Cal
33 covered services. However, it does not create any obligation on
34 the department to continue providing ADHC services if federal
35 financial participation is not available.

36 (j) (1)The department may adopt or modify regulations as are
37 necessary to implement this section, including licensing
38 regulations governing ADHCs, as found in Section 78001 and
39 following of Title 22 of the California Code of Regulations. The
40 department shall adopt any regulations that are necessary to

conform ADHC licensing standards and requirements to the certification standards and requirements approved by the CMS for the ADHC state plan amendment.

(2) The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative Law, is hereby extended to 180 days.

(3) Prior to filing any emergency regulations with respect to ADHCs, the department shall seek input from all interested stakeholders, including, but not limited to, ADHC providers and the California Association of Adult Day Services.

(k) The state plan amendment developed under this section shall be submitted to the Legislature prior to or in conjunction with submission to the CMS.

SEC. 11. Section 14573 of the Welfare and Institutions Code is amended to read:

14573. (a) Initial Medi-Cal certification for adult day health care ~~providers~~ *centers* shall expire 12 months from the date of issuance. ~~The director shall specify any date he or she determines is reasonably necessary because of the record of the applicant and to carry out the purposes of this chapter, but not more than 24 months from the date of issuance, when renewal of the certification shall expire. The certification may be extended for periods of not more than 60 days if the department determines it to be necessary. Subsequent certification periods shall expire not more than 24 months from the date of issuance, except as specified in subdivision (b).~~

(b) *Prior to the expiration of an adult day health care center's 24-month certification, the director shall evaluate whether the center meets the criteria specified in this subdivision. The director may approve a 12-month extension to the existing 24-month certification if the total certification period does not*

1 *exceed 36 months and the adult day health center meets all of the*
2 *following criteria:*

3 *(1) The center has been in operation a minimum of five years*
4 *with two consecutive 24-month certification periods within the*
5 *most recent certification periods.*

6 *(2) The center had no significant health and safety deficiencies*
7 *identified during the two most recent certification inspections.*

8 *(3) The center provided and implemented an approved plan of*
9 *correction to remedy any deficiencies cited during the most*
10 *recent certification inspection.*

11 *(4) The center had no repeat significant deficiencies identified*
12 *during the most recent certification inspection.*

13 *(5) The center had no complaints substantiated by the*
14 *department during the most recent certification period.*

15 *(c) Nothing in subdivision (a) or (b) shall be construed to*
16 *restrict the right of the department to extend the certification for*
17 *periods of not more than 60 days if the department determines it*
18 *to be necessary.*

19 *(d) Before certification renewal, the ~~provider~~ adult day health*
20 *care center shall submit with the application for renewal a report*
21 *according to department specifications that includes an analysis*
22 *of income and expenditures, continued demonstrated community*
23 *need, services provided, participant statistics and outcome, and a*
24 *statement of adherence to the adult day health care center's*
25 *policies and procedures.*

26 ~~(e)~~

27 *(e) Prior to approving renewal of Medi-Cal certification, the*
28 *California Department of Aging, as specified in the interagency*
29 *agreement pursuant to Section 1572 of the Health and Safety*
30 *Code, shall conduct a ~~financial review~~ and onsite medical and*
31 *management reviews. The reviews shall be conducted by a team*
32 *of persons with appropriate technical skills. The ~~management~~*
33 *review shall be performed by the entity responsible for directing*
34 *and coordinating the program, as specified in the interagency*
35 *agreement entered into pursuant to Section 1572 of the Health*
36 *and Safety Code.*

37 ~~(d)~~

38 *(f) Where the director determines that the public interests*
39 *would be served thereby, a public hearing may be held on any*
40 *renewal application subject to this section. The findings of the*

1 departmental program and licensing reviews and the provider's
2 annual evaluation report shall be presented at the hearing.

3 SEC. 12. Notwithstanding the rulemaking provisions of
4 Chapter 3.5 (commencing with Section 11340) of Part 1 of
5 Division 3 of Title 2 of the Government Code, the Director of
6 Health Services may implement all or part of this act by means of
7 provider bulletins or provider manual replacement pages, all
8 facilities letters, or other similar instructions, without taking
9 further regulatory action. Prior to the publication of any
10 document implementing all or part of this act, the Director of
11 Health Services shall seek input from all interested stakeholders,
12 including, but not limited to, ADHC providers and the California
13 Association for Adult Day Services. Actions taken pursuant to
14 this section to implement, interpret, or make specific this act
15 shall not be subject to the Administrative Procedure Act (Chapter
16 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
17 Title 2 of the Government Code or to the review and approval of
18 the Office of Administrative Law.

19 SEC. 13. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety
21 within the meaning of Article IV of the Constitution and shall go
22 into immediate effect. The facts constituting the necessity are:

23 In order to protect federal financial participation in the Adult
24 Day Health Care program, ensure Medi-Cal program integrity,
25 and make the necessary statutory changes to implement the Adult
26 Day Health Care state plan amendment, at the earliest possible
27 time, it is necessary that this act take effect immediately.